

AMENDED IN ASSEMBLY MARCH 31, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2488

Introduced by Assembly Member Dababneh

February 19, 2016

An act to amend Section 5515 of, and to add Section 2081.10 to, the Fish and Game Code, relating to fish.

LEGISLATIVE COUNSEL'S DIGEST

AB 2488, as amended, Dababneh. Protected species: unarmored threespine ~~stickleback~~; *stickleback*: taking or possession.

Existing law prohibits the taking or possession of a fully protected fish, except as provided, and designates the unarmored threespine stickleback as a fully protected fish. The California Endangered Species Act prohibits the taking of an endangered or threatened species, except as specified. The Department of Fish and Wildlife may authorize the take of listed species if the take is incidental to an otherwise lawful activity and the impacts are minimized and fully mitigated.

This bill would permit the department to authorize, under the California Endangered Species Act, the take of the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) attributable to the periodic dewatering, inspection, maintenance, or repair of the Metropolitan Water District of Southern California's Foothill Feeder water supply facility from Castaic Dam to the Joseph Jensen Treatment Plant in the County of Los Angeles, as specified, if certain conditions are satisfied.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The Foothill Feeder below Castaic Dam in the County of
4 Los Angeles is the primary conduit for water from the State Water
5 Project for the Southern California region served by the
6 Metropolitan Water District of Southern California. The
7 Metropolitan Water District of Southern California is a public
8 agency comprised of 26 member public agencies – 14 cities, 11
9 municipal water districts, and one county water authority – and
10 provides water to more than 19 million people in the Counties of
11 Los Angeles, Orange, Riverside, San Bernardino, San Diego, and
12 Ventura.

13 (b) Water supplies from the State Water Project are a critical
14 part of Southern California's water supply portfolio, and any
15 interruption of that supply must be minimized to ensure delivery
16 of clean and reliable water supplies for municipal and industrial
17 uses, including health and human safety, and to water agencies
18 and cities that rely upon water supply deliveries from the
19 Metropolitan Water District of Southern California.

20 (c) Periodic dewatering, inspection, maintenance, modification,
21 or repair, including emergency repairs, require that all or a portion
22 of the Foothill Feeder be dewatered into the Santa Clara River and
23 certain of its tributaries where unarmored threespine stickleback
24 (*Gasterosteus aculeatus williamsoni*) may be present during these
25 activities. Thus, the incidental take of unarmored threespine
26 stickleback must be permitted for the periodic dewatering,
27 inspection, maintenance, modification, or repair of the Foothill
28 Feeder to protect Southern California water supplies.

29 SEC. 2. Section 2081.10 is added to the Fish and Game Code,
30 to read:

31 2081.10. (a) The department may authorize, under this chapter,
32 the incidental take of unarmored threespine stickleback
33 (*Gasterosteus aculeatus williamsoni*) attributable to the periodic
34 dewatering, inspection, maintenance, modification, or repair of
35 the Metropolitan Water District of Southern California's Foothill

1 Feeder water supply facility from Castaic Dam to the Joseph Jensen
2 Treatment Plant in the County of Los Angeles, contingent upon
3 the fulfillment of the following conditions:

4 (1) The department has determined that the requirements of
5 subdivisions (b) and (c) of Section 2081 are satisfied for the take
6 of the unarmored threespine stickleback.

7 (2) The department ensures that all further measures necessary
8 to contribute to conservation as defined in subdivision (d) of
9 Section 2805 are incorporated into the project.

10 (3) The take authorization provides for the development and
11 implementation, in cooperation with the department, of an adaptive
12 management process for monitoring the effectiveness of, and
13 adjusting as necessary, the measures to minimize and fully mitigate
14 the impacts of the authorized take. The adjusted measures are
15 subject to Section 2052.1.

16 (b) The take authorization shall cover any incidental take of
17 unarmored threespine stickleback attributable to the periodic
18 dewatering, inspection, maintenance, modification, or repair of
19 the Foothill Feeder that may occur in the following locations:

20 (1) _____.

21 (2) _____.

22 (1) *Within the Santa Clara River, from the Bouquet Canyon*
23 *Road Bridge to a point located 4,000 feet downstream of where*
24 *Commerce Center Drive, as of January 1, 2016, dead ends adjacent*
25 *to the Santa Clara River.*

26 (2) *From the confluence with the Santa Clara River upstream*
27 *to the following locations:*

28 (A) *In Charlie Canyon to a point 1,000 feet upstream of the*
29 *Foothill Feeder facility dewatering structure.*

30 (B) *In San Francisquito Creek to the Copper Hill Drive bridge.*

31 (C) *In Placerita Creek to the Hacienda Lane crossing.*

32 (D) *In Bouquet Creek to the Newhall Ranch Road Bridge.*

33 (c) *The take authorization shall also cover any incidental take*
34 *of unarmored threespine stickleback that may occur in the course*
35 *of implementing mitigation or conservation actions required in*
36 *the permit issued pursuant to subdivision (a) as may be modified*
37 *through an adaptive management plan adopted pursuant to*
38 *paragraph (3) of subdivision (a).*

39 (e)

(d) This section shall not be construed to exempt from any other law the periodic dewatering, inspection, maintenance, modification, or repair of the Foothill Feeder.

SEC. 3. Section 5515 of the Fish and Game Code is amended to read:

5515. (a) (1) Except as provided in this section, Section 2081.6, Section 2081.7, Section 2081.10, or Section 2835, a fully protected fish shall not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected fish, and no permit or license previously issued shall have force or effect for that purpose. However, the department may authorize the taking of a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of a fully protected fish, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected fish may be possessed under a permit issued by the department.

(b) The following are fully protected fish:

- (1) Colorado River squawfish (*Ptychocheilus lucius*).
- (2) Thicktail chub (*Gila crassicauda*).
- (3) Mohave chub (*Gila mohavensis*).
- (4) Lost River sucker (*Catostomus luxatus*).
- (5) Modoc sucker (*Catostomus microps*).
- (6) Shortnose sucker (*Chasmistes brevirostris*).
- (7) Humpback sucker (*Xyrauchen texanus*).
- (8) Owens River pupfish (*Cyprinodon radiosus*).

- 1 (9) Unarmored threespine stickleback (*Gasterosteus aculeatus*
- 2 *williamsoni*).
- 3 (10) Rough sculpin (*Cottus asperimus*).

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